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Connecticut Joint Finance, Revenue and Bonding Committee
Public Hearing

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Chairwoman Horn, Senator Fonfara, and Senator Martin, and members of the Joint Finance, Revenue and Bonding Committee,

I would like to express my strong opposition to **S.B. 814: An Act Concerning Tax Preparer Liability for Underpaid Income Tax**. Thank you for your consideration of the concerns of the public regarding this proposed bill.

This bill as proposed would require tax preparers to “file an amended return at no cost to the taxpayer and be liable for any additional tax, penalties or interest owed” if there was “underpaid income tax due to tax preparer error.” In essence if the preparer makes a mistake on the tax return, he or she would be held responsible for all costs with regard to remedying the situation, including payment of the actual income taxes for which the taxpayer would have been liable had the error not occurred.

On the surface this sounds like an appropriate consumer protection from preparer error. In reality however it is unjust, impractical, and offers tremendous ambiguity and opportunity for misuse and malfeasance by both good-intentioned and unscrupulous taxpayers alike.

In my more than 26 years of experience, I have come to recognize the complexity of the tax code and the degree to which the taxpaying public often misunderstands it. They rely on their tax preparer to be ethical and accurate with regard to the preparation of their income tax returns. This is a role that most preparers take very seriously and hold with great honor. That said, occasionally errors can occur.

Regulated preparers, such as Enrolled Agents, Certified Public Accountants, and Attorneys, etc. are governed by the ethical standards of 31 CFR Part 10: Practice Before the Internal Revenue Service. In this instance, Diligence as to Accuracy (section 10:22) is the standard to which a practitioner must adhere. Should a mistake be made on a return, the preparer would already typically prepare the amended return at no cost in addition to paying the penalties and interest due to their own error. The income tax liability however continues to reside with the taxpayer.

Should the burden of the income tax shift to the tax preparer, there exists potential for both scapegoating and outright abuse of this law.

How will “Preparer Error” be defined in order to apply this bill? A tax return is only as good as the information provided by the taxpayer to the preparer. Preparers ask a lot of questions help the taxpayer recognize all the facets of their tax situation, however there’s no way the preparer can possibly ask every question which could possibly apply. Something which happens frequently is that the taxpayer forgets to give the preparer some pertinent information. If that occurs and the taxpayer claims the preparer didn’t ask, is that enough to be considered preparer error? If the preparer insists all tax materials be entered

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into their client portal for security purposes and yet the taxpayer emails it, then the preparer doesn't see it or include it on the return, is that preparer error?

Many of these are ambiguous and somewhat innocent situations, however there also exists the potential for abuse from nefarious actors who wish to shift their tax burden to their tax preparer. These taxpayers may employ the above strategies of not being asked the exact right question, using different delivery methods than the standard for the practice, or other means in order to assert that the preparer is to blame and thus should be held liable for the tax due. This bill incentivizes taxpayers to find ways to claim all fault belongs to the tax preparer, thus getting their income taxes paid for them.

With implementation of such a bill, the impact on the tax preparation industry will likely involve skyrocketing malpractice insurance premiums; a cost which preparers will have no choice but to pass on to taxpayers. This would disproportionately impact the smaller, local tax preparation practices which tend to serve more middle to lower middle income taxpayers, as larger tax preparation firms tend to be outside their price range. Passage of this bill would therefore directly and negatively impact middle lower middle class taxpayers due to higher tax preparation fees.

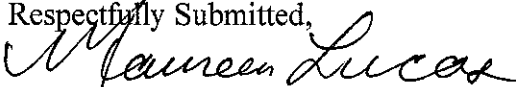
On a personal note, I would like to share how this bill would impact our decisions to offer service to our community. During the Covid-19 pandemic, the volunteer tax preparation services closed and many who relied on them were without help. As our office only has two preparers and we are family, we were not required to shut down. We heard of this need and knew we could help our community, so we told some of our local non-profit leaders to have those needing assistance contact us for help.

We had many calls and helped dozens of people file their taxes and didn't charge a penny. Because it was still during the pandemic, we collected all the required documentation and performed all of our due diligence from a social distance. We relied on taxpayers when they told us they had given us everything, and unless something was clearly missing based on the prior tax return, we took them at their word. Had this bill been in place at that time, we would not have taken on the risk of offering this help to these taxpayers in need. Should it pass, it would preclude us from doing so in the future.

When a preparer makes an error on a tax return there are typically many remedies in place, including no cost amended returns and payment of interest and penalties. On the other hand, being held responsible for the actual income tax of another, regardless of fault, is unacceptable.

Thank you for your consideration of the detrimental impact this bill would have on tax preparers as well as on the taxpayers they serve.

Respectfully Submitted,


Maureen Lucas

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